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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,047	12/01/2008	Klaus B. Dyhr	606-135-PCT-PA	5029
22145 7590 12/18/2009 KLEIN, O'NEILL & SINGH, LLP 43 CORPORATE PARK SUITE 204 IRVINE, CA 92606			EXAMINER KUHFUSS, ZACHARY L	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 12/18/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,047	Applicant(s) DYHR ET AL.	
	Examiner ZACHARY KUHFUSS	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20081201</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to because Figure 12 is too blurry and the figures and components are too small to be deciphered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by

Schrammel (DE 4,337,527).

Referring to Claim 1: Schrammel discloses an electrically powered, rail-mounted patient or person lift (26), comprising:

a carriage (28) for displacement along an overhead rail (22) having a housing (30), said housing including:

an electric motor (34) having an output shaft (62);

two belts (32) suspended from said housing for the mounting of a patient or person support;

two belt-receiving rollers (54), each having an outer cylindrical surface for receiving a respective lifting belt and co-operating (60) with said output shaft of said electrical motor *for rotating in opposite directions at the same rotational speed driven by said output shaft, thereby collecting said belts when rotating said output shaft in the one direction and discharging said belts when rotating said output shaft in the opposite direction;* and a power supply unit (68) for the delivery of electrical power to said electrical motor.

The italicized text of claim 1, as shown above, is being interpreted as follows: In order to rotate in opposite directions the rollers rotate in one direction to collect the belts and in the opposite direction to discharge the belts.

Referring to Claim 5: Schrammel discloses a remote control unit (38) communicating with said power supply (66) through a wired connection (Figs. 1 and 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrammel in view of Schroeder (EP 0,361,397).

Referring to Claim 2: Schrammel does not specifically teach the use of a DC motor or a rechargeable battery. However, Schroeder teaches a lift designed for invalids, wherein the electric motor (111) is a DC motor (Pg. 6, lines 31-33) and said power supply unit (110) is a battery supply including one or more rechargeable batteries (Fig. 3a). It would have been obvious to one of ordinary skill in the art at the time of the invention, to use a

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DC motor and a rechargeable battery, as taught by Schroeder, on Schrammel's lift because rechargeable batteries allow the device mobility over a long lifetime and a DC motor can be directly connected to the battery without any need to convert the power source.

Referring to Claim 3: Schrammel in view of Schroeder discloses the claimed invention except for the battery being rechargeable by means of a separate main supply powered recharging station. It would have been obvious to one having ordinary skill in the art at the time the invention was made to recharge the battery using a main supply powered recharging station since it is known in the art that batteries must be recharged and are usually recharged in locations with access to a main power grid. The motivation for providing such a recharging station being to keep the battery from going dead.

Referring to Claim 4: Schrammel does not teach a battery monitoring circuit. However, Schroeder teaches CPU unit (101) that controls hoist and trolley motor speeds and monitors battery voltage (Pg. 6, lines 43-45). It would have been obvious to one of ordinary skill in the art at the time of the invention,

The lift according to claim 2, said power supply unit including a monitoring circuit monitoring the capacity of said one or more re-chargeable batteries for preventing said electric motor from being actuated provided that said battery capacity is below a specific threshold.

Referring to Claim 6: Schrammel discloses the claimed invention except for the remote control unit having a rechargeable battery. It would have been obvious to one having ordinary skill in the art at the time the invention was made to power the remote with a rechargeable battery since it is known in the art that rechargeable batteries last much longer than disposable batteries.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrammel in view of Chepurny et al. (WO 03064312) ("Chepurny").

Referring to Claims 7 and 8: Schrammel teaches a lift wherein the belt receiving rollers (54) are journaled on respective journaled axles (56), but Schrammel teaches that the axle is connected to the pinion (62) via a belt (60) rather than toothed wheels. However, Chepurny teaches a lift wherein the axle of the belt receiving roller (44) is connected (40, 26) to the pinion (60) of the output shaft (62) via toothed wheels (46, 47) that sandwich the belt receiving roller (Figs. 2B and 8). It would have been obvious to one of ordinary skill in the art at the time of the invention, for Schrammel's lift to use toothed wheels and a pinion to connect the output shaft to the rollers as taught by Chepurny, because toothed gears are less likely to slip than Schrammel's belt connection.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrammel in view of Lahtinen (US 5,553,335).

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Referring to Claim 9: Schrammel does not teach positionable guiding pins. However, Lahtinen teaches a lifting device for a handicapped person, wherein the belts (19a-d) are guided from belt receiving rollers (5a, 5b) round positionable guiding pins (20a-d) (Fig. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention, for Schrammel's lift to use Lahtinen's guiding pins to ensure the straps are positioned directly underneath the rail so that no moment of inertia is created when the passenger's weight is transferred through the straps.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrammel in view of Votel (US 5,737,781).

Referring to Claim 10: Schrammel does not teach a two part housing wherein the bottom part is rotatable relative to the top part. However, Votel teaches a patient transfer system wherein the housing comprises a two part housing having a top part (414) including a pair of wheels for co-operating with said overhead rail (410) and a bottom part (412), said bottom part being journalled rotatably around a vertical axis relative to said top part (Figs. 26 and 27) (Col. 13, lines 42-45). It would have been obvious to one of ordinary skill in the art at the time of the invention, to construct Schrammel's housing using a top and bottom portions that are rotatable relative to one another such as the one taught by Votel, in order to allow the passenger to be rotated while being transported by Schrammel's lift device.

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Referring to Claim 11: Schrammel in view of Votel discloses the claimed invention except for allowing the bottom part to be disconnected from the top part. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the two parts to be disconnected, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177,179. The motivation allowing the two parts of the housing to be disconnected being that if either the top or bottom part breaks that part can be replaced without needing to replace the entire housing.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chepurny et al. (US 7,240,621) is US counterpart to the Chepurny et al. (WO 03064312). Carminati et al. (US 4,639,955) teaches a overhead lift device for moving an invalid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZACHARY KUHFUSS whose telephone number is (571)270-7858. The examiner can normally be reached on Monday-Thursday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel (Joe) Morano can be reached on (571)272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. K./
Examiner, Art Unit 3617

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617